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Concluding observations on the fourth periodic report of Azerbaijan

Addendum

Information received from Azerbaijan on follow-up to the concluding observations*

[Date received: 8 December 2016]

* The present document is being issued without formal editing.

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Follow-up information in response to the 40th paragraph of the Concluding observations of the Committee against Torture on the fourth periodic report of the Republic of Azerbaijan

1. According to the article 12 of the Constitution of the Republic of Azerbaijan, the highest priority objective of the state is to provide human and citizen rights and freedoms and worthy life level for citizens of the Republic of Azerbaijan. The human and citizen rights and freedoms enumerated in the Constitution are applied in line with international instruments to which the Republic of Azerbaijan is a party. According to the article 71 of the Constitution, the observance and protection of human and citizen rights and freedoms enumerated in the Constitution are incumbent upon legislative, administrative and judiciary bodies. As stated in the article 148.2 of the Constitution, international treaties to which the Republic of Azerbaijan is a party, are inseparable part of the legislation of the Republic of Azerbaijan. In order to implement the abovementioned provisions of the Constitution, specific duties of the law enforcement bodies are determined in laws and other normative acts that are in force.

2. In our country, the specific mechanisms are determined in laws and other normative acts for ensuring human rights and freedoms and avoiding of torture and other cruel, inhuman or degrading treatment or punishment that are in force.

3. The article 133.3 of the Criminal Code (hereinafter — CC) was abolished and the name of the article 293 was amended as "Torture, non-torture but cruel, inhuman or degrading treatment or punishment" according to the Law of the Republic of Azerbaijan dated 29 June 2012, "On making amendments in the Criminal Code of the Republic of Azerbaijan".

4. The law of the Republic of Azerbaijan "On ensuring rights and freedoms of persons held in places of detention" was adopted on 22 May 2012, which has a great significance in regulating the relations in the field of ensuring rights and freedoms of the persons who are detained or arrested.

5. According to the article 14.1 of the abovementioned Law, detained or arrested persons use rights and freedoms and carry obligations that are determined in the Constitution of the Republic of Azerbaijan, Code of Criminal Procedure (hereinafter — CCrP) and other laws.

6. In the article 15 of the mentioned Law, it is stated that after being brought to the places of arrest, the detained or arrested persons have rights as, to be provided with an opportunity to inform close relatives or persons that have legal interest for them; to be detained as providing with a personal security; not to be exposed to torture or inhuman or degrading treatment or punishment; to be provided with an opportunity to meet with an advocate and a legal representative; to participate in issues on civil law; to use notary services and other rights.

7. According to the article 27 of the mentioned Law, detained or arrested persons cannot be exposed to torture or inhuman or degrading treatment or punishment in any case. They cannot be detained in degrading conditions in places of arrest.

8. According to the article 22.3 of the mentioned Law, the administration of the places of detention immediately sends the complaints to the prosecutor who implements procedural control over primary inquiry, regarding torture or inhuman or degrading treatment, as well as written information regarding the body injuries revealed during medical examination supposed to be done as a result of torture or inhuman or degrading treatment.

9. Due to serious respond and reviewing of cases under strict control for investigation, there is a decrease in the number of complaints about cases of torture or other inhuman treatment against detained and arrested persons, in penitentiaries of the Republic of Azerbaijan. 22 complaints in 2013, 14 complaints in 2014 and 11 complaints in 2015 about cases of torture or other inhuman treatment were addressed to the Penitentiary Service and they were investigated. At the same time, regarding these petitions, 4 inquiries in 2013, 10 inquiries in 2014, 3 inquiries in 2015 were independently investigated by relative

prosecution bodies, and 2 inquiry reports in the years of 2014-2015, were sent to prosecution bodies for legal evaluation. As a result of investigation regarding these complaints, no cases of torture or other inhuman treatment were found.

10. According to the Penitentiary Service Order dated 3 December 2014, 3 staff members were expelled from Justice bodies, 1 staff member was unseated and 4 staff members received a warning penalty for incompetence due to exerting illegal physical force on a convict on 22 October 2014 at the Penitentiary numbered 13. The relevant documents were sent to the prosecution bodies for legal evaluation.

11. According to the article 8 of the CCrP, incumbencies of the criminal prosecution defined as solving crimes swiftly; comprehensive, utter and objective investigation of all cases about crime chase; exposing and prosecuting criminals; punishing suspects through determining their crime and implement fair examination aimed at acquitting innocent persons.

12. According to the article 122 of CCrP, the participants of a criminal procedure have rights to give a complaint from treatments and verdicts of an investigator, an inspector, a public prosecutor and a court. According to the Law "On Prosecution" and the CCrP, Public Prosecutor controls the compliance with the legislation of receiving, registering, executing and taking appropriate measures on applications and information addressed to the investigation and primary inquiry bodies regarding crimes and other unlawful acts.

13. At the same time the Public Prosecutor who operates procedural control over the primary inquiry has authorization to give written instructions to investigator or inspector, regarding investigation of the case, construing of criminal act, seeking of criminal, content of an indictment, making decisions, as well as executing an investigation and other procedural issues, annul the unlawful and baseless decisions of investigator or inspector, check the compliance of custody, forcibly bringing and execution of other obligatory procedural measures with the legislation as well as charge investigation body for execution of procedural acts while supervising the investigation of crime and primary inquiry.

14. Besides, according to the article 442.2 of the CCrP, complaints regarding procedural acts and decisions of the investigatory body can also be examined by Court as a judicial control.

15. Issues about judicial control are regulated in articles 443–454 of the CCrP. According to these articles, absolute judicial control is applied in situations of obligatory investigation of criminal cases, implementation of obligatory procedural measures and search operation.

16. There are two main elements of the object of judicial control: 1 — Protection of constitutional rights and freedoms 2 — Legality and basis of inquiry, investigation and decisions that adopted by prosecution bodies regarding protection of these rights and freedoms.

17. According to the article 87 of the CCrP, aggrieved person has a right to receive compensation for damages resulting from acts that have been considered in the criminal legislation, payment of expenditures during the proceedings on criminal case, and damages due to unlawful acts of the body that executes the inquiry process.

18. According to the Constitution of the Republic of Azerbaijan, everyone has a right to freedom and this right can only be restricted through custody, imprisonment and deprivation of freedom that have been determined in the legislation. Unlawful detention of a person causes liability according to the legislation of the Republic of Azerbaijan.

19. According to the CCrP of the Republic of Azerbaijan, suspected persons have a variety of rights including right to know the reason and grounds of his/her detention or arrest after the relevant decision's announcement, right to take a legal aid from advocate since the beginning, right to take a written notification about his/her rights from the person that arrested him/her — an investigator, an inspector or a Public Prosecutor. Besides, according to the CCrP, every detainee or prisoner has a right to know the reasons and grounds of his/her detention or arrest immediately, as well as the essence of suspicions or allegations, right not to convey, and right to take a legal aid from an advocate.

20. According to the articles 148.4 and 150.3 of the CCrP of the Republic of Azerbaijan, suspected person can be kept in custody (a place of temporary detention at police station) only for 48 hours based on the relevant protocol that compiled by the inquiry body. After the rule of the court for imprisonment, suspected person is transferred to the appropriate detention centre of the Penitentiary Service of the Ministry of Justice within 24 hours. If the detention centre is far from the court place and it is impossible to ensure the participation of the convicted person in the trial every day, the convicted person is transferred to the custody (a place of temporary detention at police station) from the detention centre for a period not exceeding 10 days through the reasoned decision of the court according to article 8.1 of the Law "On ensuring rights and freedoms of persons held in places of detention". This period can be extended till the end of the court examination, on the basis of the petition of the convicted person through the reasoned decision of the court.

21. On the basis of articles 178.3.2, 192.2.2, 213.2.2, 320.1 and 320.2 of the CC of the Republic of Azerbaijan, criminal inquiry about citizens of the Republic of Azerbaijan Yunusova Leyla and Yunusov Arif started in the date of 20 June 2015 due to facts of high treason through espionage, fraud, illegal business, tax evasion, forgery of official documents and using fake documents. During the investigation, these facts were revealed: Yunusova Leyla has not presented the decision regarding her appointment to deputy director position which was adopted in the meeting of founders of NGO named "Azerbaijani Women For Peace and Democracy in the Front Caucasus" registered on 27 march 1996 and other official document to the relevant state bodies; she has made her personal signature in "Signatures and stamp samples paper" dated 4 June and 21 November 2002, to be confirmed in a notarial form that gives an authority to carry out operations of the abovementioned NGO over the account located in "Unibank" OJSC. At the same time, she has obtained check-books that are significant accounting documents, by including intentionally false information in content of a required official document for check-books as if she was the director of the abovementioned NGO and then has signed these fake documents and submitted them to bank; she has not ensured the registration of grant agreements, in the executive bodies between Institute of Peace and Democracy (she is the founder and director which has no legal registration) and National Endowment for Democracy of the United States of America (NED), German Marshall Fund (GMF) and other donor organizations. As a result of the intention of not to pay taxes for works and services, registering officially for the abovementioned NGO, she has transferred 159,842.29 AZN, 580,978.94 USD, 241,338.49 EUR to the bank account of the Azerbaijani Women For Peace and Democracy in the Front Caucasus; although it is mandatory to do all financial operations in line with accounting standards according to third paragraph of the Law of Republic of Azerbaijan "On Accounting" dated 29 June 2004 numbered 716-IIQ, she has withdrawn 172,959 AZN, 596,990 USD and 262,432.5 EUR by means of checkbooks from the abovementioned bank account without proper registration in the Treasury Book; she has earned 526,943.90 AZN through unregistered grant agreements and total amount of her tax evasion was 369,378.51 AZN (136,727.15 AZN VAT, 253 19.84 AZN income tax and 207,331.52 AZN reverse charge VAT) according to articles 83.9, 101.1, 150.1.7, 159.1 and 161.1 of the Tax Code of the Republic of Azerbaijan; she has illegally carried out the entrepreneurship activity and damaged the interests of state and Azerbaijani Women For Peace and Democracy in the Front Caucasus that protected by law; 88 910 USD had been deposited to the Unibank account of the Azerbaijani Women For Peace and Democracy in the Front Caucasus by National Endowment for Democracy (NED), German Marshall Fund (GMF) and Open Society Institute Assistance Foundation between the years of 2009-2012 and Yunusova Leyla had illegally withdrawn 88 468 USD of abovementioned amount through using fraudulent cheque, after that she had deposited 71,000 USD of 88,468 USD to her personal account in Unibank (20,000 USD in 17 June 2009, 31,000 USD in 24 may 2010 and 20,000 USD in 28 February 2012) and finally she had withdrawn 78,130.42 USD from her account in 24 April 2014 with accrued interest; on the same day she had deposited 78,130.42 USD to the account of her husband, Yunusov Arif in Unibank and they had transferred this amount to the Sberbank CZ in Prague, Czech Republic; although there was no other income and no sale of their any joint property she had abused the trust of donor organizations which they granted 78,130.42 USD (61,277.69 AZN with the exchange rate of that period) to the Azerbaijani Women For Peace and Democracy in the Front Caucasus and made a fraud. For the abovementioned crimes,

Yunusova Leyla charged with articles 178.3.2, 192.2.2, 213.2.2, 320.1, 320.2 of the CC and Yunusov Arif charged with article 178.3.2 of the CC, and the related indictment was sent to the Baku Court on Grave Crimes in 2 Juiy 2015. In 13 August 2015, the Court found them guilty and sentenced Yunusova Leyla to 8 years and Yunusov Arif to 7 years and 5 months' imprisonment.

22. In order to evade from responsibility regarding their crimes, during the investigation the applications and appeals of Yunusova Leyla and Yunusov Arif regarding as if they had serious problems in their health but it was determined that there was not any problem concerning their life and health according to forensic medicine reports and results of highly qualified medical examinations.

23. So, there was not found any traumatic injuries or bruises on the body of Leyla Yunusova according to the forensic medicine report dated 31.07.2014 and numbered 254/KEŞ.

24. According to the same dated forensic medicine report numbered 185/KEŞ regarding suspected person Yunusov Arif, it was determined that there was not found any traumatic injuries or bruises on him, his hypertension disease was in its second level and his health was suitable for investigation.

25. Yunusova Leyla and Yunusov Arif regarding as if they had serious problems in their health, had been under constant medical supervision according to the letter of Baku Detention Centre of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan dated 11 December 2014 numbered 17/38-9087. She had been received immediately by medical professionals during her each call. Also she had been regularly and periodically examined by doctors. Yunusova Leyla also had been examined by various other specialists and they had not found any pathology on her. When Yunusova Leyla entered to the Baku Detention Centre on 31 July 2014 it was determined that her neuropsychiauric status and physiological indicators had been normal according to the results of her preliminary medical examination in the medical-sanitary care unit of the Detention Centre. During the electrocardiographic and fluoroscopic examination of chest organs, any pathologic change had not been found. Only the level of glucose had a bit exceeded the normal level and Hepatitis C tests had resulted positively according to the general and biochemical analysis of blood. Dietary rules for diabetes had explained to Yunusova Leyla and she had provided with glucometer and appropriate drugs. For prophylactic, purposes she was offered laboratory and instrumental examinations on 19 November 2014 by ophthalmolog of the National Ophthalmology Centre, on 25 November 2014 by doctor-sonolog (expert on ultrasound diagnostics) and on 11 December 2014 by highly qualified medical professionals of the Ministry of Health and doctors of the Medical Office of the Ministry of Justice with the participation of members of the of the Public Committee of the Ministry of Justice. She had absolutely refused to be examined. For the purpose of determining the eligibility of her health for detention, decision was adopted regarding the appointment of complex forensic medicine team with participation of her advocates on 12 December 2014 based on demands of the advocate of suspected person Yunusova Leyla. In the report of forensic medicine dated on 28 January 2015 numbered 424/KEŞ, it is stated that after Yunusova Leyla's surgery, there was not found any discord on her and according to functional diagnostic tests she has diabetes, Hepatitis C, carotid artery disease, minimal signs of cerebral atrophy, cholecystolithiasis, millimetric stone in right kidney, diffuse osteoporosis-osteodegenerative changes in thoracolumbar segments of backbone and OU-artifacia. According to abovementioned report, these diseases are chronic, does not create any danger for her life and there is no need for urgent and immediate specialized treatment, she can be examined in detention regarding her diabetes and Hepatitis C on an outpatient basis when necessary and her health allows her to be in detention centre.

26. So when Yunusova Leyla entered in detention centre preliminary medical examination had been applied to her and adequate medical services had been rendered regarding her chronic diseases that she captured while in freedom. Leading experts of the Ministry of Health were involved in her medical examinations.

27. Yunusova Leyla distrusted to members of the Medical Service of Ministry of Justice and medical professionals of the Ministry of Health and refused the suggestions for taking medical examinations and doctor controls after 5 months of her arrest.

28. All aforementioned facts prove once again that Yunusova Leyla had been provided with high level medical assistance while keeping in detention centre.

29. For the purpose of medical examination, Yunusov Arif was transferred from Detention Centre of the formerly named — Ministry of Security, to the Medical Unit of the Ministry of Justice on 15 august 2015 and had been consulted by surgeon, cardiologist, neurologist, and therapist there. After all medical examinations, it was determined that he had curable arterial hypertension, this disease had not created any discord on him and there was no need to in-patient treatment. His health had been stable during he was in the Medical Unit and there was not a situation that requires immediate medical intervention.

30. Besides, Sabunchu District Office of Public Prosecutor had started an investigation based on the news of "Azadlig radio" website and "Azadlig" newspaper regarding Yunusova Leyla's exposure to violence and limitation of phone calls by Fagan Yagubov, deputy director of the Baku Detention Centre of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan.

31. During the investigation, prisoners who are held in the same section with Yunusova Leyla had expressed that there was not any violence against her in their testimony. The personnel of Baku Detention Centre had expressed that her phone call right had limited for one month due to regularly violation of internal discipline rules by her.

32. According to the forensic medicine report regarding this case dated 13 October 2014 numbered 285, during Yunusova Leyla's medical examinations in 29.09.2014 and 10.10.2014 any objective signs of injury on her body were not found. During Yunusova Leyla's medical examination she had diagnosed with artifacia in both eyes by ophthalmolog, neurasthenia by neurologist and any traumatic pathology was not found on her body.

33. Government of the Republic of Azerbaijan had facilitated the examination of Yunusova Leyla by medical experts of Council of Europe.

34. In separate dates, with the participation of leading experts of the Ministry of Health Yunusova Leyla had been examined by 3 medical experts (Dr. Kristian Vitt, Laszelo Ungar and Zoltan Rutther) and had passed through all the tests that deemed necessary in the Diagnostic Centre of the Republic of Azerbaijan that equipped with modern equipment.

35. Besides, in several times they had taken her blood samples to the Chariet Hospital located in Germany and the results showed that there was not any serious difference between the results of parallel laboratories.

36. It was confirmed with the act compiled by experts in all three cases that the medical examinations were carried out with modern equipment in compliance with ethical norms and high technical level. In all cases, examinations were observed by head of the representation of Council of Europe for Azerbaijan.

37. Taking into account the existence of Hepatitis C virus in the blood of Yunusova Leyla, a foreign expert carried out two months course of medical treatment with "Harvoni" medicine. After one month her Hepatitis C viral load decreased to zero. During the next period, the expert examined Yunusova Leyla periodically and results of treatment were observed. Finishing of treatment with recovery was approved by instrumental and laboratory examinations.

38. By the Baku Appeal Court's decision dated on 12 November 2015 the arrest of Yunusov Arif, was substituted with a decision forbidding departure from the country and by the decision dated on nine December 2015, the imprisonment of Yunusova Leyla for 8 years 6 months, prescribed conditionally and applied by defining trial period for 5 years and she was set free from the court room. According to the relevant decision of Supreme Court Yunusov Arif and Yunusova Leyla were allowed to depart from country for the purposes of treatment.

39. In 2009, as a result of amendments made to the Laws "On non-governmental organizations (social units and funds)" and "On Grants", norms related to emblems of nongovernmental organizations were formalized, norms about branches and representations of non-governmental organizations were added, as well as financial reports and responsibilities of NGOs were determined. At the same time, it is stated in the Law "On Grant" that the donor monitors the usage of grant given by the government, in line with its setting.

40. In 2013, Amendments were made to Laws "On state registration and state register of legal persons", "On non-governmental organizations (social units and funds)", "On Grants", "Fight against legalization of cash funds or other property earned illegally and financing of terrorism" and to the Code of Administrative Offences for improvement legislation regulating NGO's activity and elimination of existing gaps.

41. Legislation was improved, provisions ensuring rights of NGO members were added, procedures protecting their rights were widened, legal basis of the activity of NGOs, as well as agencies and representatives of foreign NGOs were made rationalized, inequality between them and local organizations was eliminated, state registry of legal persons was carried out in increased level, provisions related to registering contracts for getting grants were defined within the framework of these amendments.

42. In order to ensure the lawful activity of legal persons, it is determined that the amendments made to their instrument of establishment, as well as each amendment of facts regarding legal persons in state registration comes into force only after their state registration. These organizations cannot carry out any activity on the basis of amendments which are not in force.

43. At the same time, the matters to be stipulated in the statute of agency and representative of an NGO, foreigners' and stateless persons' who have right of permanent residence right to establish an NGO, requirements on documents about appointing head of branch and representation of foreign NGO were determined. It was determined that only one branch office or representation of foreign NGOs can be established in the territory of the Republic of Azerbaijan.

44. It should be mentioned about the abolition of NGOs that related norms are stipulated in the legislation also, but legal basis of operation of NGOs, as well as foreign non-profit organizations' branches and representations was improved within the framework of the mentioned changes, alternative measures to the abolition of the organization were identified after reviewing the basis of their responsibilities and abolition.

45. It should specifically be mentioned that according to the current legislation, NGOs are not restricted or obliged to be registered as legal persons in order to be able to operate. Numerous NGOs operate in the country in the field of development of civil society, awareness raising, human rights etc. without any restrictions.

46. Criminal case and the indictment of the crimes of abuse of office, embezzlement in high amounts by forgery, dealing with illegal entrepreneurship, acquisition of income of particularly large sums of money and tax evasion of particularly large amounts were collected and sent to the court of grave crimes on 29 December 2014 and director of the NGO titled "Legal enlightening society" Aliyev Intigam was sentenced to 7 years and 6 months of imprisonment by the judgment of the court on 22 April 2015, in accordance with the Articles 179.3.2, 192.2.2, 213.1, 308.2 and 313 of the CC of the Republic of Azerbaijan. I. Aliyev went through primary medical examination upon entrance to the penitentiary institutions and no pathology was identified. During detention I. Aliyev received relevant medical treatment by highly qualified professionals of the Ministry of Health and a number of instrumental examinations were carried out at the leading clinics of the country. Intigam Aliyev was released by the decision of the Supreme Court dated 28 March 2016.

47. On 7 march 2013 based on the evidences such as: "Molotov cocktails" intended for killing people during a riot to be held in Baku, as well as, narcotic substances, substantial sum of money and other evidences collected from the addresses where members of "Nida" group reside, it was disclosed that members of the unregistered "Nida Group": Hasanov Rashad, Guliyev Bakhtiyar, Mammadli Uzeyr, Akhundov Rashadat, Gurbanli Zaur,

Novruzlu Shahin, Azizov Mammad and Rustamzada Ilkin planned to organize a mass unrest by using explosive devices such as, "Molotov cocktails", smoke grenades, 20 incendiary materials that considered using as mixed "Molotov cocktail" filled in 0.5 liter bottles, 2 explosive devices of syringes mounted 0.5 liter bottles by also storing 94,500 manats and 750 dollars (589.35 manats) in the house of Shahin Novruzlu for financing.

48. Moreover, member of "Nida" group Bakhtiyar Guliyev illegally obtained and stored in his house until 7 march 2013, 255,40 grams of hash tar and 15,48 grams of dried marijuana surpassing the size of personal consumption with no intent of sale from unknown source and committed ill-intentioned hooliganism together with his friend Rustamzade Ilkin with a group of other people in boulevard national park area at around 15:00 o'clock violating public order and expressing clear disrespect to the society on the 1st of march 2013.

49. Besides, member of "Nida" group Azizov Mammad has illegally obtained and stored in his house 174.54 grams of dried marijuana and Novruzlu Shahin Ibrahim has illegally obtained and stored 252.27 grams of hash tar surpassing the size of personal consumption with no intent of sale from unknown source until 7 march 2013.

50. For the crimes committed, Rashad Hasanov, Rashadat Akhundov, Zaur Gurbanli and Uzeyir Mammadli were accused of and brought in an indictment under the articles of the CC of the Republic of Azerbaijan — 28, 220.1 and 228.3, Bakhtiyar Guliyev — 28, 220.1, 221.2.1, 221.2.2, 228.3 and 234.1, Mammad Azizov and Shahin Novruzlu — 28, 220.1, 221.2.1, 221.2.2, 228.3, Ilkin Rustamzadeh — 28, 220.1, 221.2.1, 221.2.2 and 228.3 and according to the decision of the court the restrictive measure of arrest was selected against them.

51. During the investigation, the reviewing of accused persons' and defendants' solicitations were ensured regarding abovementioned cases in accordance with the rules and periods of the legislation of criminal-procedure and they were not faced with torture or any kind of inhuman conduct or no confessing testimonies were taken by physical or psychological oppression.

52. On 10 October 2016, the indictment on the criminal case was confirmed and the case was handed over to the Baku Court of Grave Crimes and according to the verdict of the court Rashad Hasanov, Rashadat Akhundov and others were imprisoned for various years.

53. Mass unrest occurred as a result of a car accident on 23 January 2013, at around 21:30 o'clock in Ismayilli region. Citizens of Baku, Yagublu Tofig and Mammadov Ilgar went Ismayilli region to spread their erroneous thinking of "uprising" among the people of Ismayilli inviting them to continue riots and using force against police officers which resulted in injuries among police officers and damages to personal property on 24 January 2013. Based on the evidences collected Ilgar Mammadov and Tofig Yagublu were convicted in accordance with the articles 233 and 315.2 of the CC of the Republic of Azerbaijan and restrictive measure of arrest was selected against them by the verdict of the court on 4 February 2013. Tofig Yagublu and Ilgar Mammadov were re-charged again in accordance with the articles 220.1 and 315.2 of the CC of the Republic of Azerbaijan on 26 April 2013 and on 30 April 2013 respectively.

54. Initial investigation for the criminal cases of Ilgar Mammadli, Tofig Yagublu were summarized and the documents were sent to Sheki regional court of grave crimes and the accused persons were imprisoned for various years.

55. Ilgar Mammadov, Intigam Aliyev, Mammad Azizov, Rashadat Akhundov and Rashad Hasanov were accused with specific articles of the CC of the Republic of Azerbaijan and because of the presence of a court verdict, they were placed at the investigation detention centre.

56. They were provided with necessary utilities and their rights and obligations were explained. The application of their rights that envisaged in the legislation: confidential meetings with their relatives and lawyers, correspondence, telephone talks, delivery of necessities etc. were ensured. During detention, no cruel and inhuman conduct was observed against them. Commissioner for Human Rights (Ombudsman), representatives of the public committee under the Ministry of Justice, NGOs and International Organizations

carried out regular meetings with the detainees and no complaints for illegal treatment or deprivation from medical services were received.

57. Medical service was available not only for these but also all detainees and relevant medical service was provided upon every request.

58. Upon arrival to the penitentiary institutions, all physiological indicators of I. Mammadov were within norms when medical inspection was carried out. I. Mammadov refused to give blood sample for laboratory analysis and rejected rentgenological inspection.

59. I. Mammadov had not requested for medical inspection until November 2016. He refused to go through suggested rentgenological inspection and laboratory analysis during periodical medical inspections without giving any particular explanation.

60. On 12 November 2014, symptoms such as cough and general weakness were observed on I. Mammadov and medical workers offered him inspection and treatment in medical sanitary station but he refused.

61. As observed symptoms were continued in I. Mammadov, the responsible person of Medical Office was sent to the institution, and as a result of the talks, I. Mammadov was sent to the medical sanitary station of the institution. As a result of the examinations, weak inflammatory process of upper respiratory airways and infiltrate of right haunch were determined. I. Mammadov passed through several instrumental examinations, but refused to give phlegm for revealing of tuberculosis.

62. His body temperature became normal, cough passed, his condition stabilized and inflammation in haunch was absorbed as a result of treatments.

63. On 28 November 2014, I. Mammadov was discharged from medical sanitary station in a satisfactory condition and sent to the hostel.

64. During the next period there was not any inconvenience demanding a treatment and any illness was not found in periodical examinations. In September of the last year, I. Mammadov applied to the medical service and asked a dentist from a civilian sector for stomatology service. A dentist of the institution working in the penitentiary sector was offered but I. Mammadov wanted the dentist that he chose for rendering a stomatology service. In that case, he was informed about the necessity of submitting copies of relevant documents of that dentist required by the legislation and he was informed that only after relevant condition would be ensured. But I. Mammadov has not submitted any candidate till the present day.

65. I. Mammadov now has not got any complaint, his condition is satisfactory and physiological indications are normal.

66. The physiological indications of M. Azizov, R. Akhundov and R. Hasanov as a result of initial medical examinations, when they accepted in penitentiary institutions had been normal and there had not been any pathology requiring a treatment.

67. M. Azizov applied to healthcare professionals related to urinary system inconvenience in June 2015, and as a result of a short-term ambulatory treatment his condition became normal.

68. Taking into consideration the heritable fermentative insufficiency in R. Akhundov's anamnesis, he underwent regular medical check-up.

69. During periodical medical examinations, each of three persons' condition was evaluated as satisfactory. They do not have any complaint now, conditions are satisfactory and physiological indications are in norm.

70. In accordance with the decree of the President of the Republic of Azerbaijan on "Pardoning of some group of sentenced persons" dated 17 March 2016, many persons, as well as, T. Yagublu, M. Azizov, R. Akhundov and R. Hasanov were set free.

71. In line with the legislation of the Republic of Azerbaijan, starting from the day when the arrested persons enter remand facility, they are provided with all relevant conditions for exercising their rights that stipulated in law. They are provided with necessary communal-general services, as well as they are given an opportunity for contacting with their family

members or persons to whom they have a legal interest. Arrested persons are provided with rights for confidential meetings with family members in number of times and manner stipulated in the legislation and with their advocates without limited number of times and time, and with the right of correspondence.

72. The arrested persons are examined by healthcare professionals when they enter remand facility. Results of medical examinations, as well as the revealed damages and their signs are registered, and the Ministry of Justice and Penitentiary Service are informed. Complaints relating to torture and inhuman or degrading treatment, as well as written information about physical damages supposed to be caused by torture and inhuman or degrading treatment are sent to the public prosecutor carrying out procedural control over preliminary investigation for holding an inquiry.

73. The examination of each person on whom damages were found during initial examination, are examined again by doctors of medical sanitary station for to investigate once more the reason of damages, accused persons are examined repeatedly by a healthcare professional if they returned to remand facility after examination or inquiry and if new damages are revealed, necessary notes are made in a medical history sheet and the transfer of relevant information is transferred.

74. During reception days of arrested persons, unless doctor requests, personnel of the institution are ordered to stand in a long distance from the field of hearing and view, otherwise they are informed about disciplinary responsibility.

75. It was stated in article 147.4 which included to CCrP of the Republic of Azerbaijan with the Order dated 20 October 2015, that "A person about whom a detention is applied is considered to be detained from the date, his/her freedom has been limited practically".

76. At the same time, in accordance with abovementioned amendment made to the article 158.2 of the CCrP of Republic of Azerbaijan, "Accused person's arrest period starts from the day of his/her freedom has been limited practically when the person arrested, but if the person is not arrested it starts with the execution of court decision about restrictive measure of arrest".

77. According to article 90.7 of the CCrP of the Republic of Azerbaijan, suspected person has the right to know what he/she is suspected in (context of suspicion — facts of case stipulated with criminal law and legal classification); has the right to know the grounds of detention and to get a legal assistance of an advocate when detained; has the right to get a written information about his/her rights from the person detained him/her, from investigation officer, inspector or prosecutor; has the right to have an advocate from the day of detention or decision about detention; has the right to inform close relatives or people to whom he/she has a legal interest about detention and place of detention immediately after he/she is detained by means of telephone or other means; if a detained person is foreigner or a stateless person, he/she has a right to inform immediately representative or consulate of a country that he/she is a citizen or where the person permanently lives, or national or international organization protecting the person; has the right to choose an advocate independently, put an end to his/her authorities, to use self-protection when rejects an advocate, to meet with an advocate without limited number and period of meetings, to have confidential meetings, to use advocate services free of charge, to testify according his/her petition with the participation of an advocate and other rights.

78. It is stipulated according to article 91 of this Law that, an accused person has a right to have an advocate and use his/her service free of charge since he/she is arrested or accused, to inform close relatives or people of legal interest about arrest and the place of imprisonment immediately after he/she is arrested by means of telephone or other means; if an arrested person is a foreigner or a stateless person, he/she has a right to inform immediately representative or consulate of a country that he/she is a citizen or where the person permanently lives, or national or international organization protecting the person; has the right to choose an advocate independently, put an end to his/her authorities, to use self-protection when rejects an advocate, to meet with an advocate without limiting number and period of meetings, to have confidential meetings, to use free of charge advocate services, to testify according his/her petition with the participation of an advocate and other rights.

79. Besides, the specific grounds of rejection regarding suspected or accused person's refusing of a defence lawyer are stipulated in the article 92.12 of the CCrP. If the refusal is not accepted, defence the lawyer is appointed under compulsion or the authorities of a lawyer that appointed as a defence lawyer are preserved.

80. It is stipulated in the article 92.12 of the CCrP of the Republic of Azerbaijan that an investigation officer, an inspector, a prosecutor or a court does not have a right to offer suspected or accused person to invite specific advocate. But if suspected or accused person demands, as well as in cases when participation of an advocate is obligatory during criminal procedure or an accused person does not have an advocate, an investigation officer, an inspector, a prosecutor or a court should request form head of lawyer agency for respective place to appoint an advocate amongst lawyers.

81. It is stipulated in articles 153.2.6 and 153.2.7 of the mentioned Code that if arrested person does not have a lawyer, a list of lawyers working in proper lawyer agencies locating in a place for that temporary place of detention should be presented to him/her, an opportunity to contact and meet with a lawyer should be ensured. If arrested person's financial condition is not sufficient to hire a lawyer, a lawyer in duty amongst lawyer agencies locating in a place for that temporary place of detention should be appointed for him/her on the expense of the state.

82. In accordance with requirements of legislation of criminal procedure, in the practice of investigation, suspected or accused person is provided with a lawyer both in his/her expense or on government's expense by realizing his/her right of defence from the time he/she is arrested or accused, and all examination processes are carried out with the participation of a lawyer.

83. The complaints of arrested and accused persons related to torture and inhuman or degrading treatment, as well as written appeals about physical damages revealed during medical examination that supposed to be caused by torture and inhuman or degrading treatment are sent to prosecutor's office in the districts (cities) of the country as mentioned above and proper measures stipulated by legislation are carried out for complete and thorough examination and adoption of impartial decisions.

84. So, during generalizations of Office of General Prosecutor, it was established that prosecutor's office in the districts (cities) were informed about 7 times regarding physical damages on accused persons' bodies during medical examination in 2013 and again 7 times in 2014, in remand facilities of Penitentiary Service of Ministry of Justice. Investigations were carried out regarding this information and it was decided to reject a criminal case upon collected materials.

85. Proper condition is ensured for a detained or an accused person who has been hold in places of temporary detention subordinated to the Ministry of Internal Affairs, as meeting in confidentiality with an advocate or legal representative without limited number and period of meetings since the person has been arrested or a court decision about arrest has been declared. The meetings of detained or arrested persons with an advocate or with other persons are registered in a proper way.

86. Suspected person is provided with an advocate from the time he/she is arrested or a court decision about arrest is declared. The information about his/her arrested is sent immediately to his/her family, relatives, place of residence or study by means of telephone call or other means. Besides, he/she independently chooses an advocate, puts an end his/her authorities, and defends himself/herself when refuses to have an advocate.

87. In the country, 68 temporary places of detention (TPD) out of 72 are functioning (Temporary places of detention in District Police Departments of Pirallahy and Sharur do not function, reconstruction works are carried out at temporary places of detention in District Police Bodies of Sabirabad and Gabala). 70 of the temporary places of destination have been supplied with modern alarm and video surveillance system.

88. In accordance with the "Law on ensuring rights and freedoms of persons held in places of detention" dated 22 May 2012 and "Disciplinary rules of temporary places of detention" of the Cabinet of Ministers dated 26 February 2014, arrested persons are provided with rights to inform their close relatives or persons to whom they have legal

interest, immediately after they are arrested as well as to obtain writing materials and foodstuff on their expense according to paragraph 15.1.8 of the Law and 4.1.8 of Disciplinary rules, and to be examined by health professionals of medical institutions chosen by them, to get parcels and presents, to participate in civil law relations, to use notarial services, every day to have at least 2 hours of walk, to do sport and to get a psychological support.

89. Any observed physical damages on detained or arrested persons and complaints about torture and other cruel, inhuman or degrading treatment they had faced before they entered PTD are registered immediately after entering PTD and they pass medical inspection within 24 hours. Results of medical inspection are registered in a proper way. Medical inspection can be carried out by health professionals of other medical institutions whom that arrested person wants, by his/her advocate's or arrested person's petition and under decision of the body carrying out criminal process. In this case, expenses of medical inspection are paid on arrested person's expense.

90. Ensuring of medical and psychological support to arrested people, as well as their hospitalization in medical institutions are carried out in accordance with "Rules on ensuring medical and psychological support to arrested people, as well as their hospitalization in medical institutions" of Cabinet of Ministers of Republic of Azerbaijan, dated 18 April 2013 numbered 67.

91. A specialist is invited to place of temporary detention for rendering psychological support to the arrested person upon his/her appeal.

92. Health professional carries out medical inspection without participation of other peoples (except for security measures).

93. Arrested people are provided with proper condition for realizing their rights stipulated by the legislation, from the first day they enter investigative isolation ward. They are provided with necessary community facilities, as well as with a proper opportunity for informing family members and person of legal interest. Arrested people are provided with opportunity for meeting with family members in a way and number stipulated by the law, and for confidential meetings with lawyers without limiting number and period; their rights of correspondence are ensured.